

CENTER FOR DISABILITY ACCESS  
Ray Ballister Jr., Esq., SBN 111282  
Mark Potter, Esq., SBN 166317  
Phyl Grace, Esq., SBN 171771  
Dennis Price, SBN 279082  
Mail: PO Box 262490  
San Diego, CA 92196-2490  
Delivery: 9845 Erma Road, Suite 300  
San Diego, CA 92131  
(858) 375-7385; (888) 422-5191 fax  
phylg@potterhandy.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**Chris Langer,**

Plaintiff,

v.

**Mericos Real Estate Company,  
Inc,** a California Corporation; and  
Does 1-10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For** Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act

Plaintiff Chris Langer complains of Defendants Mericos Real Estate Company, Inc, a California Corporation; and Does 1-10 ("Defendants") and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is a paraplegic who cannot walk and who uses a wheelchair for mobility. He has a specially equipped van with a ramp that deploys out of the passenger side of his van and he has a Disabled Person Parking Placard issued to him by the State of California.

1       2. Defendant Mericos Real Estate Company, Inc., owned the property  
2 ("Paid Parking Lot") located at or about 2817 Main Street, Santa Monica,  
3 California, in October 2014 and currently owns the property.

4       3. Plaintiff does not know the true names of Defendants, their business  
5 capacities, their ownership connection to the property and business, or their  
6 relative responsibilities in causing the access violations herein complained of,  
7 and alleges a joint venture and common enterprise by all such Defendants.  
8 Plaintiff is informed and believes that each of the Defendants herein,  
9 including Does 1 through 10, inclusive, is responsible in some capacity for  
10 the events herein alleged, or is a necessary party for obtaining appropriate  
11 relief. Plaintiff will seek leave to amend when the true names, capacities,  
12 connections, and responsibilities of the Defendants and Does 1 through 10,  
13 inclusive, are ascertained.

14  
15       **JURISDICTION & VENUE:**

16       4. This Court has subject matter jurisdiction over this action pursuant to  
17 28 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans  
18 with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

19       5. Pursuant to supplemental jurisdiction, an attendant and related cause  
20 of action, arising from the same nucleus of operative facts and arising out of  
21 the same transactions, is also brought under California's Unruh Civil Rights  
22 Act, which act expressly incorporates the Americans with Disabilities Act.

23       6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
24 founded on the fact that the real property which is the subject of this action is  
25 located in this district and that Plaintiff's cause of action arose in this district.

26  
27       **FACTUAL ALLEGATIONS:**

28       7. The Plaintiff went to Paid Parking Lot in October of 2014, so that he

1 could park, eat, and shop in the area.

2 8. The Paid Parking Lot is a facility open to the public, a place of public  
3 accommodation, and a business establishment.

4 9. Parking spaces are one of the facilities, privileges and advantages  
5 offered by defendants to their customers at the Paid Parking Lot.

6 10. Unfortunately, although parking spaces are one of the facilities  
7 available to patrons of the Paid Parking Lot, there is not a single van-  
8 accessible parking space in the parking lot. Two parking spaces share an  
9 access aisle but the access aisle is just 84 inches in width, which is a foot  
10 narrower than it is required to be. The parking spaces, meanwhile, are only 96  
11 inches in width. None of the handicap parking spaces have an eight foot  
12 access aisle or an alternate van design, which can be 132 inches in width  
13 (parking space) by 60 inches in width (access aisle). Here, the parking spaces  
14 are 96 inches in width while the access aisle is just 84 inches in width. This is  
15 a violation.

16 11. Plaintiff, on information and belief, alleges, however, that an  
17 additional parking space once existed at this location. Indeed, there is a sign  
18 in front of the parking spaces designed for persons with disabilities that says  
19 "Van Accessible." Unfortunately, it is no longer van accessible. The previous  
20 parking space has been allowed to fade or get paved over. Thus, there are now  
21 no van-accessible parking spaces in the parking lot.

22 12. The plaintiff personally encountered this problem. This inaccessible  
23 condition denied the plaintiff full and equal access and caused him difficulty  
24 and frustration.

25 13. Plaintiff would like to return and patronize the Paid Parking Lot but  
26 will be deterred from visiting until the defendants cure the violation. Plaintiff  
27 travels in and throughout Los Angeles County. Plaintiff eats, shops, attends  
28 car shows, auctions and other events in the County on a regular basis.

1 14. The defendants have failed to maintain in working and useable  
2 conditions those features required to provide ready access to persons with  
3 disabilities.

4 15. Given the obvious and blatant violation, the plaintiff alleges, on  
5 information and belief, that there are other violations and barriers on the site  
6 that relate to his disability. Plaintiff will amend the complaint, to provide  
7 proper notice regarding the scope of this lawsuit, once he conducts a site  
8 inspection. However, please be on notice that the plaintiff seeks to have all  
9 barriers related to his disability remedied. See *Doran v. 7-11*, 524 F.3d 1034  
10 (9th Cir. 2008) (holding that once a plaintiff encounters one barrier at a site,  
11 he can sue to have all barriers that relate to his disability removed regardless  
12 of whether he personally encountered them).

13 16. Additionally, on information and belief, the plaintiff alleges that the  
14 failure to remove these barriers was intentional because: (1) these particular  
15 barriers are intuitive and obvious; (2) the defendants exercised control and  
16 dominion over the conditions at this location and, therefore, the lack of  
17 accessible facilities was not an "accident" because had the defendants  
18 intended any other configuration, they had the means and ability to make the  
19 change.

20  
21 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
22 **WITH DISABILITIES ACT OF 1990** (On behalf of plaintiffs and against all  
23 defendants (42 U.S.C. section 12101, et seq.)

24 17. Plaintiff repleads and incorporates by reference, as if fully set forth  
25 again herein, the allegations contained in all prior paragraphs of this  
26 complaint.

27 18. Under the ADA, it is an act of discrimination to fail to ensure that the  
28 privileges, advantages, accommodations, facilities, goods and services of any

1 place of public accommodation is offered on a full and equal basis by anyone  
 2 who owns, leases, or operates a place of public accommodation. See 42  
 3 U.S.C. § 12182(a). Discrimination is defined, *inter alia*, as follows:

- 4 a. A failure to make reasonable modifications in policies, practices,  
 5 or procedures, when such modifications are necessary to afford  
 6 goods, services, facilities, privileges, advantages, or  
 7 accommodations to individuals with disabilities, unless the  
 8 accommodation would work a fundamental alteration of those  
 9 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).
- 10 b. A failure to remove architectural barriers where such removal is  
 11 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
 12 defined by reference to the ADAAG, found at 28 C.F.R., Part 36,  
 13 Appendix “D.”
- 14 c. A failure to make alterations in such a manner that, to the  
 15 maximum extent feasible, the altered portions of the facility are  
 16 readily accessible to and usable by individuals with disabilities,  
 17 including individuals who use wheelchairs or to ensure that, to  
 18 the maximum extent feasible, the path of travel to the altered  
 19 area and the bathrooms, telephones, and drinking fountains  
 20 serving the altered area, are readily accessible to and usable by  
 21 individuals with disabilities. 42 U.S.C. § 12183(a)(2).

22 19. Any business that provides parking spaces must provide accessible  
 23 parking spaces. 1991 Standards § 4.1.2(5); 2010 Standards § 208. One in  
 24 every eight of those accessible parking spaces but not less than one must be a  
 25 “van” accessible parking space, *i.e.*, having an eight foot access aisle. 1991  
 26 Standards § 4.1.2(5)(b). Under the 2010 Standards, one in every six  
 27 accessible parking spaces must be van accessible. 2010 Standards § 208.2.4.

28 20. Here, the lack of a van parking space is a violation of the law.

1       21. A public accommodation must maintain in operable working condition  
2 those features of its facilities and equipment that are required to be readily  
3 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

4       22. Here, the failure to ensure that the accessible facilities were available  
5 and ready to be used by the plaintiff is a violation of the law.

6       23. Given its location and options, the Paid Parking Lot is a business that  
7 the plaintiff will continue to desire to patronize but he has been and will  
8 continue to be discriminated against due to the lack of accessible facilities  
9 and, therefore, seeks injunctive relief to remove the barriers.

10  
11       **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
12 **RIGHTS ACT** (On behalf of plaintiffs and against all defendants) (Cal Civ §  
13 51-53)

14       24. Plaintiff repleads and incorporates by reference, as if fully set forth  
15 again herein, the allegations contained in all prior paragraphs of this  
16 complaint.

17       25. Because the defendants violated the plaintiffs' rights under the ADA,  
18 they also violated the Unruh Civil Rights Act and are liable for damages. (Civ.  
19 Code § 51(f), 52(a).)

20       26. Because the violation of the Unruh Civil Rights Act resulted in  
21 difficulty, discomfort or embarrassment for the plaintiffs, the defendants are  
22 also each responsible for statutory damages, i.e., a civil penalty. (Civ. Code §  
23 55.56(a)-(c).)

